

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

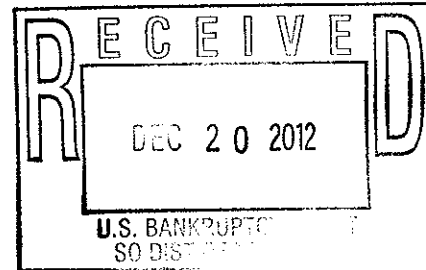
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In re:
RESIDENTIAL CAPTIAL LLC, ET AL.

Chapter 11

Case No. **12-12020 (MG)**

Debtor(s).
-----X

**Albina Tikhonov – [real party interest]
("Third Party Intervener")
On behalf of the
STATE OF NEW YORK
STATE OF CALIFORNIA**



V.

**EXECUTIVE TRUSTEE SERVICES, LLC
dba ETS SERVICES LLC, purporting
to act on behalf of
GMAC Mortgage, Inc.,**

MOTION FOR CONTEMPT OF BANKRUPTCY

I, Albina Tikhonov as trustee for the Tikhonov Family Trust and its heirs and assigns.,

Being sworn, say:

I have used I administrative remedies to the Refusal of TRUSTEE –

EXECUTIVE TRUSTEE SERVICES dba ETS SERVICES,

LLC dba in the state of California and alleges that they are both employed by the J.P.

Morgan Chase; GMAC MORTGAGE; **RESIDENTIAL CAPTIAL LLC (DEBTOR)**

and several others who all have **demand**ed payment from me as the real party interest
of the your Debtor (**RESIDENTIAL CAPTIAL LLC's**) assets .

This Real Property is located at 14713 ValleyHeart Drive, Sherman Oaks, CA

91403

Noted: this Alleged lawfully authorized trustee **ETS SERVICES, LLC dba** in the
state of California (without properly being licensed) TO CONDUCT BUSINESS IN

THE STATE OF CALIFORNIA- under *Cali. Corporate Code of Procedure 2105(a)*; as

it appears to BE the case ;

Petitioner has instated a Civil Complaint to quite Title to the real Property at issue and is so indicated as **Residential Capital LLC's ASSET** -- pursuant to the NOTICE OF PUBLIC AUCTION to SELL DEBTOR'S ASSETS SERVED UPON THE HOMEOWNER / THIRD PARTY CLAIMANT ALBINA TIKHONOV.

I am not a party to this action, am over 18 years of age and reside DO NOT RESIDE IN THE STATE OF NEW YORK, but, within the lovely state of California.

I come in Pro per (Sui Juris) as a lawful U.S. Citizen on behalf of the state of New York and the State of California under the Whistle Blower Act ;

On December 3, 2012 , I served a true and completed copy of the **Cease and Desist** marked as excerpt of record # 1

including the following documents:

☒ A copy of the Petitioner in Possession of the Subject Real Property Title and equitable Interest as evidenced by Her Recorded **GRANT DEED** within said Los Angeles County Recorder's Office, and is incorporated hereto a **MARKED AS EXHIBIT " 2" - GRANT DEED executed in 2008**, and acknowledged of perfection thereof. The fact of the matter at issue Ownership of the Real property located in the state of California.

The intent of the Motion is to further enjoin the alleged authorized and or assignee as Trustee Honorable Federal Judicial court of law. The creditor and its Trustee working under the scope of authority for of the same Deed of Trust at issue in **Debtor Residential Capital LLC's Chapter 11 filing within the United States Bankruptcy District Court , Southern District of New York case# 12-12020 (MG)**

☐ a copy of the New York Trustee's Notices served upon Petitioner Albina Tikhonov

By:
ALBINA TIKHONOV
14713 VALLEYHEART DRIVE
SHERMAN OAKS, CA [91403]
213-422-6225
Plaintiff in Sui Juris
Third

Party

Intervener

MOTION FOR CONTEMPT OF BK BY : ALBINA TIKHONOV; (PLAINTIFF- 2

**EXPARTE APPLICATION AND MOTION FOR
CONTEMPT OF BANKRUPTCY BY CREDITOR OF
J.P. MORGAN NATIONAL ASSOCIATION
AS ALLEGED-**

(BONA FIDE PURCHASER)

COMES NOW Movant, by ALBLINA TIKHONOV on behalf of TIKHONOV
FAMILY TRUST as HDC of **LEONID OVSOVICH CONVEYED** EQUITABLE
INTEREST IN THE REAL PROPERTY IN **2008** states as follows:

(In Re pursuant to 11 U.S.C.A § 350, Federal Rule of Bankruptcy
TO THE HONORABLE UNITED STATES BANKRUPTCY COURT:

COME NOW Albina Tikhonov et al , (HDC) on behalf of the United States of America ;
LEONID OVSOVICH and her own equitable interest as an innocent purchaser fro valuable
consideration of the original holder of Title to the real property at issue of the alleged trustee
and his Motion for Contempt state as follows.

Debtor, **Residential Capital LLC 's Chapter 11 filing within the United States
Bankruptcy District Court , Southern District of New York case# 12-12020 (MG)**

On or about a date before this date 12 04/2012;

1. Alleged Creditor/Bank and its Trustee, assigns, and or assignees have initiated several
demands on for payment under the same DEBTOR's asset list , and Original Creditor
LEONID OVSOVICH was listed on the appropriate schedules in the bankruptcy as a
Creditor and was service with notice through Court's U.S. Postal services noticing
system of the pending U.S. Trustee's Public Sale a Auction being held in the state of New
York under its jurisdiction of the Debtor's Asset protection plan approved under said
Chapter 11 filing therein your honorable District Court of New York,

2. On 11/06/2012, **Executive Trustee Services, LLC**, herein referred to as ETS – TRUSTEE FOR J.P. MORGAN N.A. (ASSIGNS) and is so being employed by the bank of new York Mellon and its attorneys in California , who have attempted to carry out the foreclosure process, posted a Notice of Trustee's Sale on Debtor's property notifying him of a **11/ 10/ 2012 foreclosure sale date**. Please see attached Exhibit "C".
3. In spite of **Executive Trustee Services, LLC's** apparent knowledge of this bankruptcy filing, Orders , and the trustee's notice ofd Public auction to Sell being Noticed to all Parties of Interest of the real property at issue . The Automatic Stay, and Bankruptcy Discharge, has not been finalized **J.P. MORGAN CHASE , THE BANK OF NEW YORK MELLON AND ETAL , ATTORNEYS AND AGENTS , EMPLOYEES continued to employ Executive Trustee Services, LLC's**, herein referred to as ETS and authorized a foreclosure sale against Residential Capital LLC . , (Debtor)'s asset and Petitioner : Albina Tikhonov sweat equity in the real property in located at 14713 ValleyHeart Drive, Sherman Oaks, California 91403, Los Angeles County on April 11, 2011. Please see attached **Exhibit "1- incorporated therein "**.
4. **Executive Trustee Services, LLC's** has failed to respond to any of Petitioner: Albina Tikhonov' communications to date.
5. Section 524(a)(2) and (3) prohibits any attempt to hold the debtor liable on discharged debt. This section states that the bankruptcy discharge "operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover, or offset any such debt as a personal liability of the debtor and property of the debtor." 11 U.S.C. § 524(a)(2)(3). Please see attached Exhibit "2 – **NOTICE OF TRUSTEE SALE ETS SERVICES LLC ON BEHALF OF THE BANK OF NEW YORK MELLEON AND J.P MORGAN (CHASE) N.A. trustee 2006-SP3**

6. The bankruptcy discharge clearly **states that a creditor may have the right to enforce a valid lien, such as a mortgage or security interest, against the debtor's property after the bankruptcy, IF that lien was not avoided or eliminated in the bankruptcy case.**
7. Section 542(a)(2)(3) replaces the automatic stay of § 362 with a permanent injunction against enforcement of all discharged debts after entry of the discharge. In re Waswick, 212 B.R. 350, 352 (Bankr. D.N.D. 1997). Unlike § 362(h), which authorizes an individual injured by a willful violation of the automatic stay to recover actual damages, attorney fees, and where appropriate, punitive damages, § 524(a) does not expressly mention such awards. In re Walker, 180 B.R. 834, 847 (Bankr. W.D. La. 1995). A willfull violation of the § 524(a)(2)(3) discharge injunction, however, will warrant a finding of civil contempt and imposition of sanctions. In re Waswick, 212, B.R. 350, 352 (Bankr. D.N.D. 1997); In re Goodfellow, 298 B.R. 358, 361 (Bankr. N.D. Iowa 2003). The movant has the burden to show by clear and convincing evidence that the creditor had knowledge of the discharge and order denying relief from stay and willfully violated it by pursuing collection activities. Please see attached "Exhibit G". The moving party must also demonstrate that the creditor's conduct relates to a debt that is encompassed by the discharge order. In re Gakinya, 364 B.R. 366, 370 (Bankr. W.D. Mo. 2007).
8. Debtor and Debtor's family have been repeatedly harassed with phone calls and eviction notices since auction on April 11, 2011. Please see Exhibit "H".

WHERE FOREFORE the ALBLINA TIKHONOV on behalf of TIKHONOV FAMILY TRUST as HDC of **LEONID OVSOVICH CONVEYED EQUITABLE**

1. INTEREST IN THE REAL PROPERTY request the Court for the following relief:

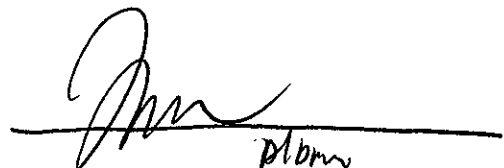
an order rescinding and enjoining the Scheduled Trustee Sale on 12. 10/ 2012 at 11:00 a..m.

at 400 Civic Center Plaza , Pomona, CA 91766

- a. an order releasing these Creditor and Trustee's Notices and its alleged right to enforcement of the DEBTOR Residential Capital LLC's lien from title,
- b. an appropriate sanction on **J.P. MORGAN CHASE , THE BANK OF NEW YORK MELLON AND ETAL , ATTORNEYS AND AGENTS , EMPLOYEES** to compensate Debtor and Petitioners United States of America ,and Myself Albina Tikhonov for the **unwarranted violations of the stay and discharge in an amount greater than \$100,000.00,**
- c. an appropriate sanction on *Executive Trustee Services, LL et al* to compensate Debtor and Petitioners United States of America (Albina Tikhonov) for the unwarranted violations of the stay and discharge in an amount greater than \$100,000.00.
- d. an award for exemplary and punitive damages **against J. P. MORGAN CHASE , THE BANK OF NEW YORK MELLON AND ETAL , ATTORNEYS AND AGENTS , EMPLOYEES** and *Executive Trustee Services, LLC et al* in the amount greater than \$100,000.00.
- e. an appropriate sanction to discourage such conduct by **J. P. MORGAN CHASE , THE BANK OF NEW YORK MELLON AND ETAL , ATTORNEYS AND AGENTS , EMPLOYEES** and *Executive Trustee Services, LLC et al* in the future.
- f. any other action for damages against **J. P. MORGAN CHASE , THE BANK OF NEW YORK MELLON AND ETAL , ATTORNEYS AND AGENTS , EMPLOYEES** and *Executive Trustee Services, LLC et al* as the Court deems proper.

Respectfully submitted,

DATED: December 10, 2012



Albina